

## PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Dear Sir:

This petition to withdraw the holding of abandonment based on evidence that a reply was timely filed or mailed under 37 CFR 1.8(a) is being filed in reply to the March 21, 2008 "Notice of Abandonment." This Petition to the Director is being filed under 37 CFR 1.181. The previous correspondence was a Notice of Appeal, timely mailed on August 14, 2007 under the requirements of 37 CFR 1.8(a). Applicant now wishes to provide the information required under 37 CFR 1.8(b) for the Director to consider the previous correspondence timely filed under 37 CFR 1.8(a).

37 CFR § 1.8, titled *Certificate of mailing or transmission*, in paragraph (a), states "Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed." § 1.8(a) then lists the requirements:

- (1) Correspondence will be considered as being timely filed if:
  - (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
    - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
    - (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR § 1.8, titled *Certificate of mailing or transmission*, in paragraph (b), states "In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S.

Adjusted date: 07/15/2008 CML OK  
05/15/2008 INTFSN 00000607 504538  
01 FC:1462 488.00 CR 10799117



An additional copy of the previously mailed correspondence and certificate is attached as **Exhibit A**.

**(3) Statement on Personal Knowledge Basis:**

A statement by the person having personal knowledge of the facts to the timely mailing by the Applicant is titled **Declaration of Certificate of Mailing**, and attached as **Exhibit B**.

**Fee set forth in § 1.17(f)**

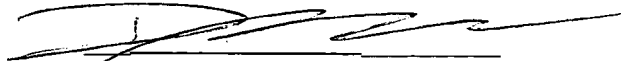
The Commissioner is hereby authorized to charge payment in the amount of \$400 for this petition set forth under 37 CFR 1.17(f). The Commissioner is hereby authorized to charge any additional fees due or to credit any overpayment to Deposit Account No. 504538.

Applicant believes that the 37 CFR § 1.8(b) requirements are now satisfied by the above information. As a result, Applicant requests acceptance of this petition to consider the previous correspondence timely filed under 37 CFR 1.8(b).

Respectfully submitted,

**EMERSON, THOMSON & BENNETT**

May 12, 2008  
Date

  
\_\_\_\_\_  
Daniel A. Thomson  
Reg. No. 43,189  
Customer No. 78340



**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					
1 Date of Request: <u>06/18/08</u>		2 Serial/Patent # <u>10/799,117</u>			
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
	Filing			\$	
	Amendment			\$	
	Extension of Time			\$	
	Notice of Appeal/Appeal			\$	
X	Petition		05/14/08	\$ 400.00	
	Issue			\$	
	Cert of Correction/Terminal Disc.			\$	
	Maintenance			\$	
	Assignment			\$	
	Other			\$	
			7 TOTAL AMOUNT OF REFUND		\$ 400.00
			8 TO BE REFUNDED BY:		
10 REASON:			Treasury Check		
	Overpayment	X		Credit Deposit A/C #:	
	Duplicate Payment	9		<div style="border: 1px solid black; display: inline-block; padding: 2px;"> 50--4538 </div>	
X	No Fee Due (Explanation):				
Rule 181 petition to withdraw holding of abandonment is a feeless petition.					
11 REFUND REQUESTED BY:					
TYPED/PRINTED NAME: <u>Shirene Willis Brantley</u>			TITLE: <u>Petitions Attorney</u>		
SIGNATURE: <u><i>Shirene Willis Brantley</i></u>			PHONE: <u>571 272-3230</u>		
OFFICE: <u>Office of Petitions</u>					
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****					
APPROVED: <u><i>CKh</i></u>		DATE: <u>7/15/08</u>			

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*